

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

STATE OF ARIZONA, ET AL

CIVIL DOCKET NO. 6:22-cv-01130

VERSUS

JUDGE DAVID C. JOSEPH

MERRICK GARLAND, ET AL

**MAGISTRATE JUDGE CAROL B.
WHITEHURST**

RULING AND ORDER

Before the Court is the Plaintiffs' REQUEST FOR JUDICIAL NOTICE [Doc. 218], asking this Court to take judicial notice of several exhibits on grounds the exhibits were obtained from federal government websites and support the Plaintiff States' opposition to Defendants' Motion to Dismiss [Doc. 217]. The Motion is partially opposed by Defendants [Doc. 223], and Plaintiffs filed a Reply brief [Doc. 225]. For the following reasons, the Motion is GRANTED.

While Defendants do not oppose the Court taking judicial notice of Exhibits 200, 201, 203, 205, 208-211, 213-218, 220-227, and 229 for the limited purpose of considering Plaintiffs' arguments for standing, Defendants oppose the Court taking judicial notice of Exhibits 202, 204, 207,¹ 212, 228, 230, and 231. Exhibits 204, 207, 212, 228, 230, and 231 are opposed on grounds the Plaintiffs do not cite any of these exhibits in their opposition to the Defendants' Motion to Dismiss [Doc. 217]. Defendants oppose judicial notice of Exhibit 202, listed by Plaintiffs as an attachment

¹ Although Defendants argue that Exhibit 206 is missing from the exhibit numbers, the record contains Exhibit 206, but does not contain Exhibit 207.

to the Declaration of Attorney Joseph Scott St. John, on grounds the exhibit was not actually filed into the record, and therefore the Defendants cannot assess its contents.

In their Reply brief, the Plaintiffs clarify that Exhibit 204 (a printout from uscis.gov) was discussed in Plaintiffs' opposition brief [Doc. 217] at pp. 9, 27, and footnote 9 but was inadvertently wrongly cited; Exhibit 207 (an excerpt from a USCIS report to Congress) was erroneously labelled Exhibit 207 in the declaration accompanying the Request for Judicial Notice, but was correctly filed as Exhibit 206 [Doc. 218-7] and referenced as Exhibit 206 at page 9 of Plaintiffs' opposition brief; Exhibit 212 (a printout of Form I-589), was discussed at page 7 of Plaintiff States' opposition, in Paragraph 17 of the Arthur Declaration [Doc. 217-64], in 30(b)(6) deposition testimony [Doc. 217-50 at 66:17-67:3, 91:25-95:4], and in expert testimony [Doc. 217-51 at 178:9-181:7, 236:16-237:11]; Exhibit 228 (excerpt from a budget document downloaded from dhs.gov) was discussed at pages 10 and 34 of Plaintiff States' opposition but was erroneously cited; Exhibit 230 (a printout from fns.usda.gov) was discussed at pages 22-23 of Plaintiffs' opposition; and Exhibit 231 (a Congressional Research Service report downloaded from crsreports.congress.gov) was cited in Paragraph 118 of the Arthur Declaration [Doc. 217-64] and discussed at pages 21-23, 31, and 35 of Plaintiffs' opposition brief.

Plaintiffs further acknowledge that Exhibit 202 (House of Representatives Committee on Homeland Security document quoting testimony by various Border Patrol Sector Chiefs discussing border flow) was inadvertently omitted from the exhibits accompanying Plaintiffs' request, however Plaintiffs attach a copy of the exhibit to their Reply brief.

“A judicially noticed fact must be one not subject to reasonable dispute in that it is either: (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” *Funk v. Stryker Corp.*, 631 F.3d 777, 783 (5th Cir. 2011) (citing Fed. R. Evid. 201(b)).

Here, with respect to Exhibits 204, 207, 212, 228, 230, and 231, the Plaintiffs have corrected erroneous citations and directed the parties’ and the Court’s attention to where the exhibits are referenced in the Plaintiffs’ opposition brief. The Court having concluded that these exhibits satisfy the requirements of F.R.E. 201(b), the Court takes judicial notice of these documents. Additionally, with respect to Exhibit 202, Plaintiffs attached the exhibit to their Reply brief and the contents thereof are now known to the parties and the Court. Thus, with respect to Exhibit 202, the Court judicially notices that the subject testimony therein was given before the House Committee on Homeland Security.

Considering the foregoing,

IT IS HEREBY ORDERED that the Plaintiffs’ REQUEST FOR JUDICIAL NOTICE [Doc. 218] is GRANTED.

THUS, DONE AND SIGNED in Chambers on this 20th day of February 2024.



DAVID C. JOSEPH
UNITED STATES DISTRICT JUDGE